The Minutes

January 27, 2003

At 9:31 a.m., the court met in the Library & Courts Building to begins its court calendar session. Present were Raye, Associate Justice; Morrison, Associate Justice; Robie, Associate Justice; and Facey, Bailiff. Calendar called.

C040825 CASSIDY v. CASSIDY

Cause called. Patrick A. Cassidy, In Pro Per appellant, argued for himself. James B. Carr, argued for respondent. Cause submitted.

At 9:57 a.m., the court recessed. At 9:58 a.m., the court reconvened.

C041090 SANTA TERESA CITIZEN ACTION GROUP et al. v. CALIFORNIA ENERGY COMMISSION and CALPINE CORPORATION

Cause called. Stephan C. Volker argued for appellants. William M. Chamberlain argued for respondent, California Energy Commission. Jeffrey D. Harris argued for respondent, Calpine Corporation. Cause submitted.

At 10:30 a.m., the court recessed. At 10:35 a.m., the court reconvened.

C041423 PARKER v. WORKER'S COMPENSATION APPEALS BOARD et al.

Cause called. Brian A. Hill argued for petitioner. Douglas B. Weill argued for respondents. Cause submitted.

At 11:00 a.m., the court recessed. At 11:11 a.m., the court reconvened with Raye, Associate Justice; Callahan, Associate Justice; and Robie, Associate Justice.

C040598 REYNOLDS v. SIERRACITIES.COM

Cause called. Rose I. Cabrera argued for appellant. Richard M. Glovin argued for respondent. Cause submitted.

At 11:42 a.m., the court recessed. At 2:03 p.m., the court reconvened with Davis, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

C038253 THE PEOPLE v. TAYLOR

Cause called. Joseph C. Shipp, court appointed counsel, argued for appellant. Peter H. Smith, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:30 p.m., the court recessed. At 2:33 p.m., the court reconvened with Davis, Associate Justice; Raye, Associate Justice; and Callahan, Associate Justice.

The Minutes

January 27, 2003, continued

C040828 CESNALIS v. CESNALIS

Cause called. Randall L. Gephart argued for appellant. Charles E. Schneider argued for respondent. Cause submitted.

At 2:50 p.m., the court recessed until 9:30 a.m. Tuesday, January 28, 2003.

C040300 THE PEOPLE v. CONTRERAS

(Not for Publication)

The judgment is modified...In all other respects, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.

Kolkey, J.

We concur: Sims, Acting P.J.

Nicholson, J.

C040539 THE PEOPLE v. THORNTON

(Not for Publication)

The judgment is affirmed.

SIMS, Acting P.J.

We concur: Nicholson, J.

Kolkey, J.

C040974 THE PEOPLE v. McDANIEL

(Not for Publication)

The judgment is affirmed.

SIMS, Acting P.J.

We concur: Nicholson, J.

Hull, J.

C041222 THE PEOPLE v. ADAMS

(Not for Publication)

Counts one through six are dismissed. As modified, the judgment is

affirmed.

ROBIE, J.

We concur: Blease, Acting P.J.

The Minutes

January 27, 2003, continued

C032534 SANCTITY OF HUMAN LIFE NETWORK et al. v. CALIFORNIA HIGHWAY PATROL (Certified for Publication)

The judgment is modified ... As modified, the judgment is affirmed. Plaintiffs shall recover their costs on appeal. (CERTIFIED FOR PUBLICATION) NICHOLSON, J.

I fully concur in Justice Nicholson's well-reasoned analysis and conclusion... I write separately to emphasize my disagreement with several aspects of my dissenting colleague's views...

I concur: Raye, J.

As will soon become apparent, I strongly disagree with the majority's analysis--an analysis that should be terrifying to any person who drives on a freeway...

Accordingly, I agree with the trial court that the CHP may properly preclude plaintiffs from demonstrating to freeway traffic from freeway overpasses. Thus, I would affirm the judgment in its totality. (CERTIFIED FOR PUBLICATION).

Scotland, P.J.

CO41493 STATE BAR OF CALIFORNIA v. SUPERIOR COURT OF SACRAMENTO COUNTY and HARNED (Not for Publication)

The alternative writ is discharged and the petition for writ of mandate or other appropriate relief is denied.

BLEASE, Acting P.J.

We concur: Nicholson, J.

Robie, J.

C040314 In re DEREK A.; THE PEOPLE v. DEREK A.

(Not for Publication)

The judgment (order committing the minor to the CYA) is affirmed.

ROBIE, J.

We concur: Blease, Acting P.J.

Callahan, J.

C040554 In re DOMINIC D.; THE PEOPLE v. DOMINIC D. and SHARITA W. (Not for Publication)

The judgment (order committing minor to the California Youth Authority) is affirmed.

ROBIE, J.

We concur: Blease, Acting P.J.

The Minutes

January 28, 2003

At 9:31 a.m., the court met in the Library & Courts Building to begins its court calendar session. Present were Raye, Associate Justice; Morrison, Associate Justice; Robie, Associate Justice; and Rios, Bailiff. Calendar called.

C041050 DIAMOND CREEK PARTNERS, LTD., et al. v. CITY OF LINCOLN et al.

Cause called. J. William Yeates argued and Mary U. Akens, appeared only for appellants. Harriet A. Steiner argued for respondents. Cause submitted.

At 9:55 a.m., the court recessed. At 9:58 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

C038590 THE PEOPLE v. WILLIAMS

Cause called. Philip M. Brooks, court appointed counsel, argued for appellant. Catherine Chatman, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:15 a.m., the court recessed. At 10:20 a.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Nicholson, Associate Justice.

C038558 C038726

BOONE et al. v. CALIFORNIA LAND TITLE COMPANY OF NEVADA COUNTY BOONE et al. v. CALIFORNIA LAND TITLE COMPANY OF NEVADA COUNTY

Cause called. Jeffrey Charles Ingram argued for appellant. Phillip R. Bonotto argued for respondents. Cause submitted.

At 10:50 a.m., the court recessed. At 10:54 a.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Nicholson, Associate Justice.

C037053 THE PEOPLE v. SLIGHTOM

Cause called. Maribeth Halloran, court appointed counsel, argued for appellant. John A. Thawley, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:24 a.m., the court recessed. At 2:02 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; Morrison, Associate Justice.

C038754 TRINKLE v. CALIFORNIA STATE LOTTERY

Cause called. William D. Thomson argued for appellant. Susan R. Denious argued for respondent. Cause submitted.

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January 28, 2003, continued

At 2:20 p.m., the court recessed. At 2:22 p.m., the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Kolkey, Associate Justice.

C041456 RICCI v. TOLLEFSON, et al.

Cause called. Brendan J. Begley argued for appellants and submitted additional citations. Roger M. Miller argued for respondents. Cause submitted.

At 2:57 p.m., the court recessed. At 3:00 p.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Raye, Associate Justice.

C039942 HOWARD JARVIS TAXPAYERS ASSOCIATION et al. v. CITY OF ROSEVILLE

Cause called. Jay-Allen Eisen argued for appellant. Timothy A. Bittle argued for respondents. Cause submitted.

C040158 EATON VANCE DISTRIBUTORS, INC., et al. v. GRAINGER et al.

Cause called. James M. Finberg argued for appellants. William R. Warne argued for respondent Taylor. Erin E. Kelly argued for respondent Bullock etc. Thomas M. Peterson argued for respondent Thomas Jr. et al. Howard M. Hoffman argued for respondent Bragagnolo. Carl E. Poli and Geoffrey A. Goodman appeared only for respondents Grainger et al. Cause submitted.

At 4:19 p.m., court recessed until 9:30 a.m., Tuesday, February 18, 2003.

C032511 THE PEOPLE v. PITTMAN et al. (Not for Publication)

As to Humphrey, the conviction for petty theft with a prior (§ 666) is reversed; in all other respects the judgment is affirmed. As to Pittman, the judgment is affirmed.

MORRISON, J.

We concur: Nicholson, Acting P.J.

Hull, J.

C034998 THE PEOPLE v. EGY

(Not for Publication)

The judgment is affirmed.

RAYE, J.

We concur: Davis, Acting P.J.

Nicholson, J.

The Minutes

January 28, 2003, continued

C038248 THE PEOPLE v. WOMACK (Not for Publication)

The judgment is affirmed.

NICHOLSON, Acting P.J.

I concur: Kolkey, J.

I concur, but as to part I in the result only...

Hull. J.

C038721 THE PEOPLE v. SMITH (Not for Publication)

The judgment is affirmed.

KOLKEY, J.

We concur: Blease, Acting P.J.

Nicholson, J.

C039714 THE PEOPLE v. COX (Not for Publication)

The condition of probation prohibiting defendant from using or possessing controlled substances including marijuana is stricken. The case is remanded to the trial court for a new hearing limited to imposition of a probation condition barring the use or possession of controlled substances without a prescription by a physician and barring use and possession of marijuana. The clerk shall prepare a corrected minute order to include any new probation conditions and forward a certified copy to the probation department. Counts 2 and 4 are dismissed. In all other aspects, the judgment is affirmed.

SIMS, Acting P.J.

We concur: Nicholson, J.

Kolkey, J.

C040341 THE PEOPLE v. GIL (Not for Publication)

The judgment is affirmed.

Nicholson, Acting P.J.

We concur: Morrison, J.

Callahan, J.

C040438 THE PEOPLE v. RUTTMAN (Not for Publication)

The judgment is modified ... The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.

CALLAHAN, J.

We concur: Blease, Acting P.J.

Morrison, J.

The Minutes

January 28, 2003, continued

C039252 HARVEY v. MORENO

(Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Sims, J.

Hull, J.

C040262 MACKEY et al. v. DEPARTMENT OF CORRECTIONS et al.

(Certified for Partial Publication)

The judgment is affirmed. (CERTIFIED FOR PARTIAL PUBLICATION)

HULL, J.

We concur: Raye, Acting P.J.

Callahan, J.

C040855 ABRAMS v. ABRAMS

(Certified for Publication)

The portion of the custody order awarding mother attorney fees as sanctions under section 271 is reversed, and the matter is remanded for further proceedings consistent with this opinion. In all other respects, the custody order is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 26 (a) (1).)

SCOTLAND, P.J.

We concur: Davis, J.

Callahan, J.

C039413 THE PEOPLE v. WILLIAMS

(Not for Publication)

THE COURT:

The opinion filed herein on January 23, 2003, shall be modified as follows:...

This modification does not change the judgment.

FOR THE COURT:

SIMS, Acting P.J.

RAYE, J.

MORRISON, J.

January 29, 2003

C034068 THE PEOPLE v. NORTHERN

(Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Blease, Acting P.J.

Kolkey, J.

The Minutes

January 29, 2003, continued

C037948 THE PEOPLE v. SAIZ

(Not for Publication)

The finding that defendant suffered a prior strike conviction and the sentence based thereon are vacated. The matter is remanded for resentencing, and to allow the People to file, within 30 days of the issuance of the remittitur, a written demand for a new (bench) trial on the prior strike conviction issues of whether defendant personally inflicted great bodily injury or personally used a dangerous or deadly weapon. If the superior court does not receive a timely demand, after the 30th day it shall dismiss the prior strike conviction allegation. In all other respects, the judgment is affirmed.

DAVIS, J.

We concur: Blease, Acting P.J.

Morrison, J.

C038943 THE PEOPLE v. HARRIS

(Not for Publication)

The judgment is affirmed.

KOLKEY, J.

We concur: Sims, Acting P.J.

Nicholson, J.

C040951 THE PEOPLE v. SAMPSON

(Not for Publication)

The judgment of conviction on count three for misdemeanor false imprisonment is affirmed. The judgment of conviction on count one for willful infliction of corporal injury (Pen. Code, § 273.5, subd. (a)) is reversed and remanded for a new trial.

ROBIE, J.

We concur: Morrison, Acting P.J.

Kolkey, J.

C038678 HAGAN ENGINEERING, INC. v. MILLS et al.

(Not for Publication)

The judgment (order granting motion for injunction and other relief) is reversed and the cause is remanded to the superior court with directions to deny Hagan's motion for lack of subject matter jurisdiction. Upon finality of this decision, the stay order previously issued by this court is vacated. Hagan shall pay Mills the costs of this appeal. (Cal. Rules of Court, rule 26(a).)

MORRISON, J.

We concur: Davis, Acting P.J.

The Minutes

January 29, 2003, continued

C039102 SAMANTHA H. v. FIELDS (I

(Not for Publication)

The judgment is affirmed. Respondent Mildred Fields shall recover her

costs on appeal.

SIMS, Acting P.J.

We concur: Nicholson, J.

Raye, J.

C040059 RICKABAUGH v. ALBRECHT, as Trustee, etc,

(Not for Publication)

The order awarding costs to defendant Hildegard Albrecht, as Trustee of the Albrecht Trust, is amended to reduce the amount from \$9,529.50 to \$8,745.50. In all other respects, the order is affirmed. Costs on appeal are awarded to defendant Hildegard Albrecht, as Trustee of the Albrecht Trust. (Cal. Rules of Court, rule 26(a).)

KOLKEY, J.

We concur: Blease, Acting P.J.

Raye, J.

C041048 AMARAL v. BARRIGA

(Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Nicholson, Acting P.J.

Kolkey, J.

January 30, 2003

C040044 THE PEOPLE v. WOODWARD

(Not for Publication)

The judgment is affirmed.

ROBIE, J.

We concur: Sims, Acting P.J.

Callahan, J.

C041765 THE PEOPLE v. LUNA

(Not for Publication)

The judgment is affirmed.

Blease, Acting P.J.

We concur: Morrison, J.

The Minutes

January 30, 2003, continued

C038553 BROWN v. SACRAMENTO COUNTY EMPLOYEES RETIREMENT SYSTEM et al. (Not for Publication)

The judgment is affirmed. The County shall recover its costs of this

appeal.

MORRISON, J.

We concur: Sims, Acting P.J.

Callahan, J.

C039686 WESTLY, as State Controller v. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM BOARD OF ADMINISTRATION et al.

(Certified for Publication)

The order sustaining the demurrer is overruled and the trial court is directed to enter judgment in favor of the Controller on the sixth cause of action.

The judgment is modified by striking paragraph 3(f) and by deleting the following language from paragraph 2, "; and defendants are subject to the restrictions of article III, section 3.5 of the California Constitution".

In all other respects the judgment is affirmed and our previously issued stay is vacated.

BLEASE, Acting P.J.

We concur: Sims, J.

Robie, J.

C040075 ARBUCKLE-COLLEGE CITY FIRE PROTECTION DISTRICT v. COUNTY OF COLUSA et al. (Certified for Publication)

The judgment of dismissal is affirmed.

SCOTLAND, P.J.

We concur: Davis, J.

Robie, J.

January 31, 2003

C039750 THE PEOPLE v. BRACY (Not for Publication)

The judgment is affirmed.

KOLKEY, J.

We concur: Davis, Acting P.J.

Raye, J.

The Minutes

January 31, 2003, continued

C041041 THE PEOPLE v. FANNING (Not for Publication)

The judgment is modified...

As modified, the judgment is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Callahan, J.

C041510 THE PEOPLE v. MARQUEZ (Not for Publication)

The judgment is modified... As modified, the judgment is affirmed. The

trial court is directed to amend the order of probation to reflect these

modifications and to state that the probation supervision fee is \$10 per month.

SCOTLAND, P.J.

We concur: Raye, J.

Morison, J.

C041571 THE PEOPLE v. REDDING (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Callahan, J.

C041610 THE PEOPLE v. RANDOLPH (Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We concur: Davis, Acting P.J.

Callahan, J.

C041770 THE PEOPLE v. TAYLOR (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We concur: Blease, Acting P.J.

Callahan, J.

C038386 MARTIN v. ALEXANDER et al. (Not for Publication)

The judgment is affirmed. Martin shall pay forthwith to defendant Alexander the sum of \$8,288 and to the clerk of this court the sum of \$10,000, all as sanctions for a frivolous appeal. Defendant Alexander shall receive her costs

on appeal.

SIMS, Acting P.J.

We concur: Davis, J.

Kolkey, J.

The Minutes

January 31, 2003, continued

C038514 ANANDA CHURCH OF SELF-REALIZATION v. AMERICAN INTERNATIONAL SURPLUS LINE INSURANCE COMPANY (Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Scotland, P.J.

Davis. J.

C038533 ANANDA CHURCH OF SELF-REALIZATION v. STATE FARM FIRE AND

CASUALTY COMPANY (Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Scotland, P.J.

Davis, J.

C038570 ANANDA CHURCH OF SELF-REALIZATION v. EVEREST NATIONAL

INSURANCE COMPANY (Not for Publication)

The judgment is affirmed.

CALLAHAN, J.

We concur: Scotland, P.J.

Davis, J.

C040083 RAYNOR v. STATE PERSONNEL BOARD et al. and DEPARTMENT OF

CORRECTIONS et al. (Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We concur: Sims, Acting P.J.

Morrison, J.

C040751 MEZZETTI v. MANTECA UNIFIED SCHOOL DISTRICT et al.

(Not for Publication)

The judgment is affirmed. Defendants shall receive their costs on appeal.

SIMS, Acting P.J.

We concur: Davis, J.

Callahan, J.

C040839 HURFF v. MERCY HEALTHCARE SACRAMENTO et al.

(Not for Publication)

The judgment is affirmed

BLEASE, Acting P.J.

We concur: Davis. J.

The Minutes

January 31, 2003, continued

C037297 In re OMAR R.; THE PEOPLE v. OMAR R. (Not for Publication)

The judgment (order of informal probation) is affirmed.

SCOTLAND, P.J.

We concur: Raye, J.

Callahan, J.

C040332 In re STEVEN R.; THE PEOPLE v. STEVEN R.

(Not for Publication)

The judgment (order committing the minor to the CYA) is affirmed.

DAVIS, Acting P.J.

We concur: Raye, J.

Kolkey, J.

C041287 In re DAVID G.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. GLORIA G. (Not for Publication)

The juvenile court's orders are affirmed.

SCOTLAND, P.J.

We concur: Hull, J.

Kolkey, J.

C041317 In re CHARLES K.; EL DORADO COUNTY DEPARTMENT OF SOCIAL SERVICES v. CLARK K. (Not for Publication)

The judgment of disposition is modified by striking the finding that allegation (g-2) of the petition was true. As modified, the judgment of disposition is affirmed.

HULL, Acting P.J.

We concur: Kolkey, J.

Robie, J.

C040262 MACKEY et al. v. DEPARTMENT OF CORRECTIONS et al.

(Certified for Partial Publication)

THE COURT:

It is ordered that the opinion filed herein on January 28, 2003, be corrected as follows:...

There is no change in the judgment.

FOR THE COURT:

CALLAHAN, Acting P.J.

RAYE, J.

HULL, J.

The Minutes

January 31, 2003, continued

C040555 THE PEOPLE v. DAVIS

BY THE COURT:

Appellant's motion to recall the remittitur is granted. The remittitur issued on December 31, 2002, is ordered recalled, and the trial court clerk is directed to return the original remittitur to this court. The opinion of this court filed on October 29, 2002, and submission of the case are vacated due to the defendant's failure to receive a complete copy of the opinion. The appeal is reinstated.

Upon receipt of the original remittitur from the trial court, the cause will be resubmitted, and the clerk of this court is directed to refile the opinion in the above matter.

SCOTLAND, P.J.